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Paper No. 12

In re Application of :
William Apps *et al* : DECISION ON PETITION
Application No. 09/977,636 :
Filed: September 15, 2001 :
Attorney Docket No. RPC 0554 PUS :

This is a decision on the petition originally filed by facsimile transmission on August 27, 2003 and subsequently resubmitted. The duplicate submission has been discarded, see 37 CFR 1.4(b). In the petition, petitioners request withdrawal of the holding that this application stands abandoned for failure to timely file a reply to the Office letter dated August 16, 2002. No fee is required for the petition.

The petition is granted.

Petitioner alleges that the application is not abandoned because a reply to the Office letter in question was in fact filed, together with the appropriate petition for a three month extension of time and the fee therefor. The reply and extension are in fact of record in the file, and bear a filing date of March 4, 2003 and a 37 CFR 1.8(a) certificate of mailing dated February 19, 2003. As February 17, 2003 was a holiday in the District of Columbia, and as the Office was closed on February 18, 2003 due to a snow emergency, the reply and extension were in fact filed on the next available business day after the due date of February 16, 2003 and were timely filed. Therefore, it is clear that the application is not in fact abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3727 who will insure that the examiner takes the application up for action as the next application acted upon.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

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